

# "ARBITRARY ARRESTS."

## S P E E C H

OF

HON. MR. PRINDLE,  
OF CHENANGO,

ON THE

GOVERNOR'S MESSAGE AND ARBITRARY ARRESTS,

IN ASSEMBLY—FEBRUARY 10, 1863.

Mr. PRINDLE called for the reading of the Resolution of Mr. DEAN relative to Arbitrary Arrests.

The CLERK read the resolution, which is as follows:

*Whereas*, several citizens of the State of New York, have, since the first day of July, 1861, been arrested without process of law and imprisoned without warrant within the limits of this State; and

*Whereas*, many others have been so arrested and taken, not only without authority of law, but in violation of the statutes, beyond the limits of the State; and

*Whereas*, it is represented that public officers of this State have aided in such arrests and imprisonment and deportation, and that the public prisons of this State have been used for the confinement of such prisoners so illegally held; and

*Whereas*, it is also represented that certain Judges of this State having jurisdiction, have, in violation of the statutes, refused an application to issue writs of Habeas Corpus; therefore

*Resolved*, That a Select Committee of five be appointed to inquire into all the above matters, and that the said Committee have authority to send for and examine persons and papers, and that said Committee be directed to report to this House in writing, with all convenient speed, together with the evidence taken therein.

Mr. PRINDLE said: Mr. SPEAKER, I have no set speech to make, nor do I intend to enter into a very elaborate or lengthy discussion of the questions involved in this resolution. I have only a few ideas to present in a somewhat crude manner for the consideration of this Assembly, in answer to the arguments of the gentleman upon the other side of this house.

I think we realize very little of what is going on around us, that we appreciate very little the alarming condition in which our country is placed. I often think that if we could, in the quiet and peaceful days of 1860, have looked suddenly upon the fearful and bloody picture of 1863, alarm and consternation would have

been depicted upon every countenance; such alarm, sir, and consternation as language would fail to express. Many would have been driven wild and mad with excitement and fear, had this dark picture been suddenly presented to the human eye.

But as the mariner, long accustomed to the dangers of the sea, can look with calmness and indifference upon boiling waves that would frighten the unaccustomed landsman, so we have grown indifferent and apathetic in regard to the true state of our country.

I believe, sir, that if we all felt as we did when we first heard the echo of hostile cannon in Charleston Bay, we would not be discussing such Resolutions as the one under discussion to-night. I believe—and I say it with no personal unkindness—that no such resolution would have been introduced. But times have changed; we have grown indifferent; men have begun again to dabble in the dirty pool of partisan politics, and we do not and will not as then rally as one man in defense of the endangered flag of our country. Since this resolution has been introduced I propose to discuss it temperately, candidly and fairly. I regard the questions involved in this resolution of the utmost importance, second perhaps to none that have been brought before this Assembly. It is exceedingly dangerous to array the Empire State against the General Government, and the passage of this resolution would be most unwise, unpatriotic and unfortunate to our country. I can see no good that can arise from the passage of this resolution—only harm.

One question—and perhaps the principal one—involvement in this resolution is, were the "arbitrary arrests," as they are termed, made upon

any principle consonant with common sense, and the Constitution and laws of the land.

Many people have taken it for granted, without any investigation whatever, that the administration has usurped unlawful power in making these arrests. After the investigation that I have been able to give this subject I have come to the conclusion that the administration has not transgressed the law in this respect. I believe that in making these arrests the President acted in accordance with his sworn duty to the Constitution and his country, and that he would not have done his whole duty had he neglected to apprehend most of the persons concerning whom complaint is made. I believe there is a law, which has been recognized at some period of its existence by every nation upon the face of the earth, which is recognized in all the relations of life, by all communities and individuals, the great unreppealed and unrepaleable law of necessity and self-preservation, which fully justifies the administration in adopting these measures to suppress this infernal rebellion. And for the purpose of establishing the position which I take, I read from the work of an eminent English writer upon Martial Law.

*Extract from Tytler on Courts Martial.*

"It had ever been deemed constitutional for the sovereign in times of extraordinary disorder and turbulence, to use the military power of the crown for the speedy repression of such enormities, and the restoring of the public peace. It must be allowed that there are seasons when the ordinary course of justice is, from its slow and regulated pace, utterly inadequate to the coercion of the most dangerous crimes against the state; when every moment is critical; and without some extraordinary remedy the commonwealth would perish. The extension of a power beyond the law is therefore in such times of danger justified on the principle of absolute necessity; and there is every reason to treat with extreme distrust the motives of those pretended patriots, who, arraiging those necessary measures, on the ground of a violation of the rights of the subject, would oppose their exercise, be the hazard ever so great that calls them forth."

In another portion of the same work, upon the same subject, the author says:

"Of such temporary restraint on the natural liberty of the subject none will ever complain but those on whom that restraint is necessary. The good man and the worthy citizen feels no hardship in that law which holds out its terrors only to the enemies of his country. Even the philosopher and speculative politician will subscribe to the wisdom of that expedient which requires us to part with our liberty for a while, in order that we may preserve it forever."

I do not wish to be understood in reading these extracts as impugning or questioning the motives of the gentleman who introduced this resolution, or the gentlemen who have spoken in favor of this resolution, or of the gentlemen who may hereafter speak or vote in its favor. I claim to be actuated myself by upright motives, and I am willing to accord the same to every gentleman upon this floor.

I believe the gentleman from Kings the other day enumerated three persons, the last of whom was Abraham Lincoln, as the only persons who had ever attempted to interfere with the writ of *Habeas Corpus*. I was somewhat surprised that the gentleman should have forgotten to mention Gen. Andrew Jackson, a most distinguished chief of the Democratic party. General

Jackson suspended the writ of habeas corpus and imprisoned a person for the publication of an article complaining of the suspension of the writ and the exercise of martial law. General Jackson kept martial law in force not only during war but after peace was negotiated between this country and Great Britain, and that fact had become known to him.

Mr. T. C. FIELDS denied that martial law was kept in force after General Jackson knew that peace had been negotiated.

Mr. PRINDLE: It was known to General Jackson that peace had been negotiated, and martial law was kept in existence afterwards.

Mr. SEYMOUR: Did I understand the gentleman to say that General Jackson imprisoned an individual after he knew that peace had been negotiated?

Mr. PRINDLE: The gentleman is himself the judge of what he understood me to say.

Mr. SEYMOUR: Was I correct in so understanding?

Mr. PRINDLE: What I intended to say, and what I do say, is that General Jackson kept martial law in existence after peace had been negotiated, and after that fact had been made known to him by the Postmaster General, and I appeal to history to confirm what I say. I say, sir, that General Jackson not only suspended the writ of habeas corpus, but imprisoned a person for writing an article complaining of the suspension of that writ, and when Judge HALL dared to issue a writ of habeas corpus in his behalf, imprisoned him even for his interference in the matter. I presume the gentleman from Kings (Mr. HUGHES,) did not think of this fact when he enumerated the three persons as the only ones who had suspended the writ.

Mr. T. C. FIELDS: That was in a military district over which Jackson had command.

Mr. PRINDLE: I know very well that was in a military district over which Jackson had command, but I claim, sir, that so far as any principle involved is concerned it makes no difference whether these arrests were made in a district where war was actually waged or not. I propose now to quote from Democratic authority, and show the position assumed by that great warrior, statesman and patriot, General Andrew Jackson, in a military order issued by him, and I must say, sir, that I feel for him the most profound respect, not only as a general and a patriot, but as an expounder of the Constitution. In that order General Jackson said:

"The Constitution of the United States secures to the citizen the most valuable privileges, yet the same Constitution contemplates the necessity of suspending the exercise of some in order to secure the continuance of all. If it authorizes the suspension of the habeas corpus in certain cases it thereby impliedly admits the operation of martial law, when, in the event of rebellion or invasion, public safety may require it. To whom does the declaration of this law belong? To the guardian of the public safety—to him who is to conduct the operations against the enemy, whose vigilance is to descry danger, and whose arms are to repel it."

I feel, sir, the most profound respect for him as a lawyer when examining his views and the construction that he placed upon the Constitution. His view undoubtedly was that that clause



of the Constitution which declares that the writ of habeas corpus shall not be suspended except in case of rebellion or invasion, is a limitation of the war power, a limitation of the power of the military commander, a limitation to cases of rebellion and invasion. Had not this clause been in the Constitution the military commander might have suspended the writ of habeas corpus in all cases of war, if he thought it necessary and proper, upon the same principle and by the same authority that he would do any other act of war.

It is well understood that Thomas Jefferson exercised the power of making arbitrary arrests; that in a case of conspiracy, or supposed conspiracy in which Aaron Burr was engaged, he caused him to be arrested without any warrant or process of law of any kind.

Mr. T. C. FIELDS reminded the gentleman that Aaron Burr was arrested and tried under the law.

Mr. PRINDLE: His arrest in the first instance was arbitrary and without warrant or process of law. It makes no difference if he was subsequently arrested and tried a thousand times.

We have other testimony, sir, in favor of making these arbitrary arrests—the testimony of Stephen A. Douglas, another distinguished, noble and patriotic chief of the Democratic party.

Mr. FIELD: I presume the gentleman refers to the Speech of Douglas in Congress on the question of refunding the fine to Jackson. I deny that it contains any such doctrine. I ask the gentleman to point out that portion of the speech containing the doctrine.

Mr. PRINDLE: That is precisely what I was about to do. Now the gentleman has taken pains to say that no such doctrine can be found in the speech of Mr. Douglas, and we shall see whether the gentleman is correct or not when I read from the speech made in defense of General Jackson. A resolution had been introduced into Congress to refund the fine paid by General Jackson. It will be recollected that Judge Hall fined General Jackson \$1,000 for a contempt of court, which fine he paid. Douglas made a speech in favor of the resolution refunding the money with interest. He took the broadest ground in defense of Jackson, *justifying* his whole course of proceeding, and the old veteran afterwards took him by the hand and expressed to him his heartfelt thanks for that speech. I have only a few words quoted, but we shall see whether they sustain the doctrine that I have claimed they do.

"For one I maintain that in the exercise of this power General Jackson did not violate the Constitution, nor assume to himself any authority which was not fully authorized and legalized by his position, his duty and the unavoidable necessity of the case."

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"There are exigencies in the history of nations, as well as individuals, when necessity becomes the paramount law, to which all other considerations must yield. It is that first great law of nature which authorizes a man to defend his life, his person, his wife and children at all hazards and by every means in his power."

I contend, sir, that there is a full, ample, broad justification of all General Jackson did in the matter, and of the authority in case of national extremity for making arbitrary arrests. I am

willing to take for my guides in this matter such men as Jefferson, Jackson and Douglas, three of the most distinguished chiefs the Democratic party ever had, whether Democrats now foreake the teachings or not.

Not only this, sir, but it is well known that the resolution, refunding the money and interest, passed both houses of a Democratic Congress, all the leading Democrats making speeches in its favor, and among them James Buchanan. This resolution passed by a strict party vote of 28 to 20 in the Senate and of 158 to 28 in the House. There, sir, we have a Democratic indorsement by a Democratic Congress of the power to make "arbitrary arrests." Why are not the gentlemen of the Democratic party willing to follow their own leaders and their own precedents? Why raise this question in this hour of national extremity and peril? Why raise this most dangerous issue between the Empire State and the Federal Government? It seems to me there can be—I will not say no doubt, for I know men differ upon this question—but it does seem to me that the power to make these arrests in case of great national danger is plain and palpable, and that the principle upon which they are made can hardly be disputed.

I said, sir, that the law of necessity and self-preservation is recognized in all the relations of life.

Suppose a fire occurs in this city and the firemen come on with their engines to stop the conflagration, and it becomes necessary to enter some man's enclosure, or blow up somebody's building, do they stop to consult some musty law book to see whether they are trespassing upon somebody's property? And what should we think of a squad of men who should get together while the conflagration was raging unchecked, and make themselves busy drawing up resolutions condemning the destruction of private property as an outrage upon the citizens and a gross violation of the law and the constitution?

I claim that a nation in time of extreme peril must be governed by the same law as an individual in time of great personal danger.

Men must be governed by a law that is applicable to the circumstances around them. Suppose I meet a highwayman alone and he presents a dagger to my view and demands my money or my life. By what law am I to be governed? There is a law upon our statute books that provides that when a man's life is threatened he may go before a magistrate, make oath to the facts and circumstances, and cause the offender to be apprehended and compelled to give bail to keep the peace or be committed to jail. But what is that law to me with the highwayman and dagger in view? Can I avail myself of its provisions? Will it do me any good? Can I rely upon it to save my life? No, sir, there is that other law—that law of self-preservation, that I must look to in this most dangerous emergency. Shall I remember the Constitution, which says "no man shall be deprived of life, liberty or property without due process of law." And must I bare my breast to the blood-

thirsty dagger of the highwayman for fear of violating the Constitution, or have I not rather the legal, constitutional, undeniable right to draw a pistol and shoot him on the spot? What process of law would there be about my taking the life of the highwayman, as process of law is defined, a regular proceeding in a court of justice?

Suppose I find a burglar in my house at night, am I to start in the first place for a magistrate to make oath to the fact and have him apprehended by due process of law? Or have I not the right to apprehend him and deprive him of his liberty immediately—aye, sir, have I not the right to take his *life*, if necessary, to prevent his escape? What process of law is there about that?

Suppose I see a murderer stealthily approaching his victim to take his life. There has been no disturbance—no breach of the peace. What am I to do? Have I not the right under certain circumstances to take the life of the man who attempts the murder?

MR. MURPHY: Does the gentleman from Chennango say that there is any law of the land that authorizes me to kill a man because I see him stealthily approaching another?

MR. PRINDLE: I said under certain circumstances.

MR. MURPHY: Will the gentleman state those circumstances.

MR. PRINDLE: If I see another stealthily approaching my wife, my child, or my servant with the intention of murdering them, and it is necessary for me to kill him, in order to prevent the murder, then, sir, I have a right to do it.

MR. MURPHY: What law gives you the right to judge that the intention is murder?

MR. PRINDLE: Does the gentleman deny that the law gives me the right to take life under such circumstances?

MR. MURPHY: I do.

MR. PRINDLE: Then the gentleman and myself differ upon that point.

If an individual has a right to make use of such extraordinary means to preserve his individual life, has not the nation a right to use the same means to preserve the national life. If it is not unconstitutional for an individual to take life and liberty without "due process of law" in time of extreme personal danger, is it any more so for a nation in time of extreme national danger? Will it do to apply one rule of construction as it regards the individual and another as it regards the nation?

No, sir! I claim, and I insist that the claim is founded upon principles that can not be successfully disputed, that the nation has a right to make use of *far more* extraordinary means than the individual, as much more extraordinary, sir, as the life of the nation is of more importance than the life of the individual. Why, sir, we look to the nation for the preservation of *all* our lives, and the preservation of our property, and the preservation of our liberties, which are dearer than life. The national life is worth far more than the lives of all this generation, for I believe that millions and millions, yet unborn, are to

enjoy the blessings of this unbroken government over this undivided country.

Do gentlemen say that this doctrine of arbitrary power is dangerous doctrine? Dare gentlemen upon this floor deny the rightful existence of such power?

To test this principle, sir, let me put a plain case.

Suppose three men enter into a conspiracy to overthrow this Government, and establish a despotism in its place. Suppose knowledge of the fact of this conspiracy comes to the mind of the President, but in such a way—as every lawyer knows might be the case—that there is no *legal* evidence of the conspiracy. He becomes satisfied that unless the leader of those conspirators is arrested and confined, the conspirators will be successful in their undertaking. He knows, too, that by arresting the leading conspirator, he can thwart their designs and save the Government and the Constitution. Now what is he to do? Are his hands so tied by the Constitution that he cannot save the Constitution which he has sworn to support? What would be his duty as a faithful President of the United States? What would Democrats have him do?

MR. T. C. FIELDS: The Democrats would have the offenders arrested by process of law, and tried according to the provisions of law.

MR. PRINDLE: But suppose there is no legal evidence.

MR. FIELD: Then they would get clear. We don't find so much fault with the *arrest*, we want to have men *tried* when arrested.

MR. PRINDLE: Does the gentleman say he would have men *arrested* without evidence, and that he finds no fault with the administration for the *arrest* of men?

MR. FIELDS: No, sir!

MR. PRINDLE: Then, sir, I wish to test this principle concerning the power to make those arrests, and I make this supposition of the conspiracy, and the President has no evidence that he can lay before any court. If he makes the arrest it must be arbitrary.

What should the President do? Should he do nothing and allow the Government and Constitution he has sworn to support to be destroyed, or should he take the responsibility, make the arrest and save the Constitution? I think no one can deny that it would be his duty in that case to make the arrest.

Then, sir, the *principle* upon which these arrests are made is vindicated. If he should arrest in *one* instance to save the Government, he should in all cases where it is necessary.

Then, sir, the President has a *discretionary* power vested in him to make arrests or not as the necessities of the case may require. He and his advisers must necessarily be the judges of the necessity of making arrests, and the only question then is, whether or not he has abused the discretion. The principle upon which Jefferson, Jackson and Douglas acted is sound and can not be denied.

The gentleman said the arrest made by General Jackson was in a military district where war was actually waged. That was not the case



when Aaron Burr was arrested by order of Thomas Jefferson. But, sir, I care not whether arrests are made in a military district where war is waged or not. It makes no difference so far as the principle is concerned, upon which the arrests are made.

The gentleman from Kings quoted the Constitution to prove that there was no authority for making the arrests. Now, sir, if the Constitution forbids arbitrary arrests in time of war in military districts where war is not waged, it forbids arbitrary arrests in time of war in military districts where war is waged. I ask gentlemen to point me to the language of the Constitution that makes any distinction of this kind. There is no such distinction. No such distinction can be found in the Constitution.

Do gentlemen concede the right in districts where there is actual war? The right can not well be denied, for precedents have been established, the right has been exercised at different times from the foundation of the Government down to the present time. War could not be carried on successfully in time of rebellion without the exercise of martial law.

There is a difference between *martial law* and *military law*. Military law consists of the articles of war, and the regulations made by military commanders for the government of the soldiers and officers of the army. Martial law embraces the citizens as well as soldiers in the district where it is enforced.

Mr. TALMAN: I would inquire of the gentleman if martial law has been declared in this State?

Mr. PRINDLE: I understand, sir, that it has been substantially declared, so far as it has been exercised, or we should not be discussing arbitrary arrests.

Mr. VAN BUREN: By what right then do we sit here?

Mr. PRINDLE: We sit here, sir, as I understand it, by virtue of the Constitution and Laws of the land.

Mr. T. C. FIELDS: Does not martial law override the civil law?

Mr. PRINDLE: It does so far as it is exercised.

The SPEAKER reminded the gentlemen that this interruption was all out of order. The gentleman from Chenango had the floor and must not be interrupted.

Mr. FIELDS: With all deference to the Speaker I desire to suggest that the gentleman entitled to the floor is the judge as to whether he would give way for questions.

Mr. PRINDLE: I am aware that the gentleman from New York is in favor of "interruption." We who listened to his remarks during the long struggle to organize this House know that he is in favor of interruption. But the gentleman is aware that it has a different effect upon the remarks which I am making from what it did upon the long history of the war which the gentleman gave us. I am not talking against time. I have no desire to occupy any great length of time upon this floor, and if gentlemen wish to answer any thing I may say I prefer that they should take notes, and answer me in a proper manner

after I leave the floor. It is not particularly pleasant to have one battery open on the right and another on the left, and then masked batteries in the rear.

I was speaking of martial law and the right to make arrests in a district where there is no war. Again I say, sir, that the Constitution knows no such distinctions as have been attempted to be established, and I defy the gentlemen to point out any in that instrument. The question depends upon the necessity of the case, and there might be more necessity in the State of New York than in the State of Louisiana.

Now, sir, has there been any necessity for these arrests?

Contemplate for a single moment the position in which the President was placed, with the solemn obligation resting upon him to preserve the Government and the Constitution. An iniquitous and gigantic rebellion had arisen, which more than a million of armed men have been unable to put down. We had hundreds of miles of coast and border. Our army and navy had been controlled by traitors and purposely sent upon distant expeditions, or basely and traitorously betrayed into the hands of the enemy. There were traitors at the North, traitors at the South, traitors at the East and traitors at the West, traitors in the Army, traitors in the Navy, traitors on land, traitors on the sea, traitors everywhere. Men turned traitors and spies and informers—men, too, who had been born and reared beneath Northern skies, basely betrayed their own flag, their own country, their own section. Why, sir, the administration of James Buchanan had virtually made a bill of sale to Jeff. Davis of our Government, our Constitution and our Country, and almost effected a delivery!

Men were going about among us, gathering up information and articles contraband of war, and transmitting them to the land of the rebels, for the benefit of rebels whose hands are red with the blood of our fellow citizens. Beautiful secession ladies, like the lady the gentleman from New York has mentioned as wantonly deprived of her liberty, loaded themselves down with contraband articles and letters containing valuable information, and bore them away and across the border under the protection of crinoline.

Sir, the fate of battles, the fate of campaigns, the fate of armies was decided by information obtained in this manner.

Men were busy going about from place to place, poisoning the minds of the people against the administration who was endeavoring to enforce the laws. Disloyal newspapers were published by disloyal men and scattered broadcast over the land, poisoning the patriotic minds of the people, aiding and abetting rebel ruffians who were imbruing their hands in the blood of the loyal defenders of the American Union. How was it with Marshal Kane blocking up the way to Washington through Baltimore, while the streets of that city were red with the blood of Massachusetts' sons, in order that the Capitol of the Nation might fall into the hands of the rebels? Was there no necessity for making any

arrests? Were the hands of the President so tied that there was no help for all this Northern defection? Could nothing be done? But gentlemen say, why were not complaints made in courts of justice? Gentlemen are aware that treason is very strictly defined in our Constitution, and men can do much, very much, to injure their country without being guilty of treason. Perhaps gentlemen will say if there was no law in existence by which these persons could be punished Congress ought to have passed a law. I believe the Governor in his Message says substantially if there was no law in existence by which these persons could be punished, the blame rests with a Republican Congress.

But what a howl would have come up from the Democratic party had Congress passed a law creating new crimes. What an uproar would have been made about liberty of speech and liberty of the press. Whatever the Administration or Congress might have done these gentlemen would have found fault.

In many cases where parties had actually committed the crime of treason, there was no evidence, or insufficient evidence to convict them under the Constitution, and yet the administration and the people acquainted with them were satisfied they were guilty, and that they were too dangerous to remain at large. The President, in this most difficult position, took the responsibility of making the arrests for the safety of the country.

Did he make the arrests because he had any motives of malice, because he had any feelings of revenge to gratify? Did he do it for his personal benefit or personal aggrandizement? No, sir! We all *know* that he made them from motives of the purest patriotism, for *our* good, and for the good of the country. Shall we find fault continually and be captious under such circumstances and spend our time passing resolutions of this kind, and forming investigating committees?

Sir! I would that every citizen might be protected in the enjoyment of that liberty which it is his right to enjoy. I would remember those, if any there be, who have been mistakenly or unnecessarily arrested by the agents of the Government, but whilst I would remember Mrs. Brinsmaide and the Rev. Mr. Benedict dragged from their friends and confined in dreary cells, as the gentleman from New York has informed us they were for a time, I would not forget the fact that more than two hundred thousand of our fellow citizens, whose rights were as dear and as sacred as theirs, have been dragged from *their* homes, their firesides and their friends by this bloody rebellion, and confined in cells darker than any the gentleman has mentioned, more dreary, more isolated, more lonely, where no habeas corpus will ever reach them! I would not forget the fact that to-day more than a million of our fellow-citizens are deprived of the society of their friends, that their bodies are living bulwarks for our defense; that they are compelled day after day, and week after week, and month after month, to endure the hardship, privation and fatigue of a soldier's life; that

they are compelled repeatedly to face the attacking lines and batteries of a savage and infuriated enemy; that thousands more, pale and emaciated with sickness and sorrow, deprived of the endearing society of wives and sisters and mothers, are stretched upon uneasy cots in distant hospitals, pining, suffering, dying, on account of this horrible rebellion. I would not forget the fact, either that *they* are not enemies of their country, but noble self-sacrificing patriots. God forbid that in our anxiety to help our enemies we should injure our friends, impose upon them any harder task than they have on hand, or do any act that could have any tendency to make their armed enemies in the field rejoice, or give them strength or confidence!

Gentlemen complain of arbitrary arrests. In my judgment the way to prevent them is not to pass resolutions of this character, but to *fight the rebels and put down the rebellion*. Compel rebels in arms to yield obedience to the Government, and then, sir, these temporary excrescences upon the body politic will pass away. When "grim-visaged war has smoothed his wrinkled front" there will be no more arbitrary arrests.

I believe it would be exceedingly dangerous to pass this resolution. There is no other question so likely to produce division among us, at a time when union and a fraternal co-operation of all loyal men to sustain the Government is indispensable.

There is no danger, sir, of centralization of power in the General Government. The history of this Government shows that such is not the tendency. If the Government is destroyed it will be because of its weakness and not because of its strength. It will be because the States have assumed powers that belong to the General Government, and not because the General Government has assumed power that belonged to the States. We are struggling to-day to restore to the General Government that power that has been usurped by States under the pretence of enforcing State rights.

Let us not here, in the North, follow the lead of the rebels of the South, by raising unnecessary issues with the Federal Government, stripping it of its strength and influence, and completing the work which Southerners could not consummate alone.

We recollect that the Democratic party, or a portion of them, attempted to carry the election of 1861 on what was called the ninth resolution, a resolution complaining of arbitrary arrests, the suspension of the writ of habeas corpus, and the passport system which had been necessarily established. But, sir, the people at that time could not be induced to allow a political party to make capital at the expense of national prosperity. But, now, when still further disasters have come upon the country, when dangers thicken around, when it is more than ever necessary that there should be entire and hearty co-operation between the State and the Nation, this dangerous issue has been successfully raised, an election has been carried upon it, and the effect has been to powerfully assist the rebellion.



Th gentleman from Kings complained that men who had been imprisoned had been compelled, before being released, to take an oath not to commence any suits for damages for their arrest.

believe, sir, that we have official information from the Secretary of War that no such oaths have been imposed upon anybody by any officer of the Government, but that in a very few instances persons have *voluntarily* taken such an oath. No persons have been asked or required to take such an oath by any officer of the Government.

I care not what course others may take, but for one, sir, I stand by Abraham Lincoln, the constitutionally elected President of the United States, and the legal and constitutional Commander-in-Chief of the armies of the American Union. I recognize him, sir, as the *President of the United States, entitled to control the policy of the Administration, and to command the army.* Others may attack him if they will, I will not. I see him standing anxious and careworn, holding above him the flag of our country—that flag, sir, which is the emblem of our nationality and glory; that has waved over us in victory and in defeat; that has been the protection of American citizens on every continent, island and sea; that flag that is dear to the heart of every patriot—I see him as he holds that flag aloft, surrounded by a murderous horde of rebel ruffians, whose blood-stained hands are clutching at it, and endeavoring to tear it down and trample it in the dust. Shall I, at such a time, be captious and fault-finding, and scoff and jeer at him, and taunt him with being imbecile and weak? Or shall I, and shall all patriots, stand by him, help him with all our strength, and give him words of cheer in the dreadful contest? Gentlemen may find fault if they please, but I shall stand by him.

I ask, gentlemen, if they can point me to a man who would have done any better? Who saw two years ago the faintest outline of events that have followed each other in startling succession? What overwhelming difficulties the Administration has had to encounter! The ship of state, when Abraham Lincoln took command, had entered an unknown and dangerous sea. Who had fathomed its depths? Who knew its hidden rocks? Who knew its currents, and who had examined its dangerous and rocky shores? No chart of this unexplored sea was attainable. Can we say with any degree of certainty that any other man would have done better? No living man can say that any other commander—any man less vigilant, less sagacious, less cautious—any man not possessing the peculiar combination of qualities that Abraham Lincoln possesses—would not have dashed us upon the rocks long ago!

Because the President has not been always successful shall we abandon him, and refuse him our support? Shall we do it *now* when there is danger every moment that the ship of state, with all on board, will go to the bottom? Is it the time when the waves are boiling around us, and every joint of the ship is groaning, when the

storm is darkest and fiercest—is *this* the time to refuse to obey orders? Is this the time to *mutiny*, or to fold our hands and whine and cry and predict disaster?

In God's name let us take hold like men and obey orders! Let us have confidence in our commander, for we have—we can have no other in this storm. If any one on board is making disturbance and we are ordered to put him in irons let us do it. If there is any cumbersome and heavy *property* on board that is likely to sink us to the bottom, and we are commanded to throw it overboard, let us take hold with a will and heave it over. Let the *property* go to the bottom, and let the good old ship, with her precious cargo of human life, sail on and outride the storm!

I know that Abraham Lincoln has been abused and slandered. I believe that history will do him justice. When the passions and prejudices of the day are passed, when future generations look with unclouded view upon the acts of his administration, they will do him justice, and I believe the brightest page of American history will be that upon which is written the name of Abraham Lincoln.

I recollect of reading, sir, that Washington, too, was slandered; that a powerful cabal rose against him when he was unfortunate, when his army, overtaken by temporary disaster, shoeless and almost naked, were in their dreary encampment at Valley Forge—when the currency was depreciated and ruin seemed to stare the Government in the face, in spite of all the wise measures which he bore so conspicuous a part in originating and carrying out. But, sir, Washington triumphed, he triumphed in history, and so will Abraham Lincoln.

I have heard a great deal said about supporting the Government and not supporting the Administration. I have heard such talk upon this floor. Sir, that is something that I do not understand. I can not see how it is possible, when the nation is struggling for existence, to sustain the Government and not sustain the measures of the Administration. I can see how in times of peace and safety the acts of the Administration might be properly opposed, without doing any thing against the integrity of the Government. But when the nation is struggling for life, when every act and measure of the Administration has for its direct object the preservation of the Government, I can not see how those acts and measures can be opposed without opposing the Government. How can the Government be sustained except through the Administration? What is the Government? Is it something that you can take out of the hands of the Administration and disconnect from it? Is it something that you can feed and clothe and support in that way, independently of the Administration?

How would such principles be received in the business transactions of life?

Suppose a corporation in existence for the transaction of a particular branch of business, with a board of directors elected for four years to act as the officers of the corporation and attend to its business. Suppose losses and finan-

cial difficulties occur, and the board of directors are struggling to keep the institution from insolvency. How would any man appear as a member of the company, having capital invested, continually condemning the measures of the board, and opposing them, writing letters about the country, destroying the credit of the concern and predicting its insolvency, alleging incompetence on the part of the board to manage the business as an excuse for his conduct, and pretending all the while to be acting for the interests, and to prevent the insolvency of, the corporation. He would be considered insane, and he is equally insane who thinks now to support this Government and oppose the Administration.

I am opposed to this resolution because I believe its passage would be detrimental to the interests of the country. It would be copied into all the Southern papers, and we should be virtually saying to the rebels, "hold out a little longer and our own dissensions will compel us to submit to your dictation." Jeff. Davis' eye would brighten with joy as he read the resolution. It would furnish volunteers for the Southern army. It would move and strengthen the arms that are plunging the bayonet into the hearts of our countrymen. It would furnish an argument against us for tyrants at home and tyrants abroad. It would be one step taken in a direction that might lead to the withdrawal from the support of the Government of more than one-fifth of all the men and resources at its command.

I warn gentlemen to examine this matter carefully in all its bearings before voting for this resolution. I believe that we are invited to take a false step; that the path which we are invited to enter is a divergence from the good old road that the Empire State has traveled, that it leads in the direction of disloyalty and treason.

Why, sir, what do we see in the Legislature of Indiana. We see resolutions introduced proposing that that State shall enter directly upon the path of disloyalty, proposing to call a convention of rebel states as well as loyal, without

the consent of Congress, for the purpose of patching up an agreement, and that, too, notwithstanding the Constitution expressly forbids States to enter into any agreement or compact with each other without the consent of Congress.

Sir, let not the Empire State follow in the wake of any such disloyal propositions. If we enter this pathway God only knows where it will lead us. Though other States may swerve from duty, let the Empire State remain faithful and all will yet be well.

I am opposed to this resolution because it makes a wanton and uncalled for attack upon upright judges of the State of New York, who have patriotically stood by the Government and obeyed the voice of the President.

Why, sir, I believe it was to-day that I heard a resolution offered in this House proposing to punish judges who should refuse the writ of habeas corpus, by imprisonment in State Prison for ten years. Why this most extraordinary attack on men for obeying the order of the President? Were they not endeavoring to do their duty? Were they controlled by bad motives? I believe the judges did their duty in obeying the President, and ought not to be censured or attacked by the passage of this resolution.

I question no man's motives. I am willing to believe that every gentleman upon this floor is actuated by pure motives, but I believe that the passage of resolutions of this character has a tendency to bring anarchy and violence among us.

Let us examine this matter carefully and do our duty as legislators and as men. We are acting not for our interests alone. The day is not distant when we shall have all passed from the stage of action, and another generation will have succeeded us. This government, this country and its institutions are ours, but they are not ours alone. They belong likewise to posterity. I trust we shall do nothing that will have any tendency to destroy the heritage which it is our duty to transmit.